

REMARKS

Prior to examination on the merits, Applicant respectfully requests entry and consideration of the foregoing amendments. Claims 1-15 were filed in the parent application. Original claims 2-15 are currently being cancelled by the foregoing amendment. Applicant respectfully requests the cancellation of original claim 1 upon the present application being granted a filing date. As such, claim 1 should not be examined on the merits.

Applicant is presenting new claims 16-35 by way of the foregoing amendment. Applicant respectfully submits that support for new claims 16-35 is found throughout the specification, for example, at FIGS. 1-8 and the descriptions thereof. Entry of new claims 16-35 is respectfully requested at this time.

Applicant submits that the above amendment to the specification was entered in parent application Serial No. 09/919,154 by way of an amendment dated January 7, 2003. Accordingly, the foregoing amendment to the specification does not constitute new matter.

Applicant submits that the foregoing amendment to the drawings was entered in parent application Serial No. 09/919,154 by way of an amendment dated September 16, 2003. The foregoing amendment to the drawings, which provides formal drawings, replaces the informal drawings present in the original application. As such, the foregoing amendment to the drawings does not constitute new matter.

Applicant would like to address US 3,421,398 ("Whiteside") and US 3,685,388 ("Young"), as each was cited against the claims presented in the parent application Serial No. 09/919,154.

All New Claims Are Patentable over Whiteside

Claims 16-35 are patentable over Whiteside. This position is correct because Whiteside fails to disclose or otherwise teach or suggest an interface insert fixed in at least one of the first post, the second post, the first end, the second end, and the key, as defined by independent claim 16. Similarly, independent claim 35 is patentable over Whiteside at least because Whiteside fails to disclose or otherwise teach or suggest at least one wear protection member being fixed into the at least one groove.

Applicant teaches throughout the specification that the interface insert is fixed in a groove. For example, at page 5, lines 19-20 of the application, Applicant discloses, "To prevent that, an annular interface insert 3 is fitted into grooves at the end points of the tubular tubing sections 1." Moreover, Applicant teaches throughout the disclosure, e.g., in the Abstract, that interface inserts can be fitted in any section of the instrument:

"In a preferred embodiment, annular interface inserts are fitted into the grooves made in the sections of the instrument."
Clearly, Applicant teaches and discloses an interface insert that is fixed (i.e., not movable) in position.

In contrast, Whiteside teaches at column 3, lines 40-45 that the bearing insert is not fixed:

Each **bearing insert 38** is flat on one face as at 40, perpendicular to the axis thereof. The opposite face is concave or semi-spherical as indicated at 42. This face engages the spherical head of the corresponding post 14, and **is movable** thereabout to insure the proper alignment of the bearing insert 38... (Emphasis added).

Further, Whiteside, at column 3, line 73 – column 4, line 1, explains that the bearing insert 38 can move or rotate because the concave side of the bearing

insert rests on the surface of the post, "The spherical concave surface of the bearing insert contacts the head of the post in a substantially perfect surface engagement. . ." (Emphasis added). Thus, Whiteside undoubtedly teaches that the concave face 42 of the bearing insert 38 rotates about the surface of the head 16 and is not fixed in the head.

It is also worth noting that dependent claims 24 and 27 are patentable over Whiteside at least because nowhere does Whiteside disclose or otherwise teach or suggest an insert or member that is cone shaped. Thus, claims 24 and 27 are patentable over Whiteside for this additional, independently sufficient reason.

Accordingly, claim 16 is patentable over Whiteside at least because Whiteside fails to disclose or otherwise teach or suggest an interface insert fixed in at least one of the first post, the second post, the first end, the second end, and the key. Claims 17-34 are patentable over Whiteside at least by virtue of their direct or indirect dependency. Similarly, claim 35 is patentable over Whiteside at least because Whiteside fails to disclose or otherwise teach or suggest at least one wear protection member being fixed into the at least one groove.

All New Claims Are Patentable over Whiteside in view of Young

As discussed above, independent claim 16 is patentable over Whiteside in view of Young, at least because the proposed combination of Whiteside and Young fails to disclose or otherwise teach or suggest an interface insert fixed in at least one of the first post, the second post, the first end, the second end, and the key, as defined by independent claim 16. Similarly, independent claim 35 is patentable over the proposed combination of Whiteside and Young at least because the combination fails to disclose or otherwise teach or suggest at least one wear protection member being fixed into the at least one groove.

Clearly Young does not cure the deficiencies of Whiteside insofar as Young does not teach an interface insert fixed in any post or in any end of a rotatable tubular section. Certainly, Young does not teach or suggest an interface insert in a post since Young does not teach *any* posts (or keys for that matter). Further, Young does not teach or suggest an interface insert in an end of a rotatable tube, as that term is used here. The term rotatable tube is used here to refer to the tube that is mounted between the posts, which are in turn, mounted to the instrument body. For example, Applicant discloses at page 5, lines 15-20:

To illustrate this concept, FIG. 1 shows a section of the mechanism where tubular tubing sections ("keys") 1 are positioned next to each other with a shaft 2 passing through them. During operation of the instrument, rotation of the tubular tubing sections 1 around the axis of the shaft 2 causes friction between adjacent end points 18 of the tubular tubing sections 1.

As such, the sections disclosed by Young (e.g., column 2, lines 32-35) cannot be interpreted as being analogous to Applicant's rotatable tube since Young's sections are not mounted between any posts. Rather, Young's sections mate with each other and form the body of the instrument. In that regard, Young's sections are at best analogous to the sections of the instrument body disclosed by Applicant. Accordingly, Young does not teach or suggest an interface insert **fixed** in a rotatable tube insofar as Young does not teach or suggest a rotatable tubular section, as defined by all pending independent claims.

Further, Young does not teach or suggest that its O-ring is a wear protection member, as defined by all pending claims. Rather, Young teaches, for example, at column 4, lines 23-25:

"The O-ring 46 is compressed against the confronting surface of section 15 to aid in the sealing engagement of the interconnected sections."

Young makes this purpose of the O-ring additionally apparent at claim 5 (column 6, lines 4-5). Thus, the O-ring 46 merely acts as a seal and not as a wear protection member as defined by claim 16. Thus, all claims are patentable over the proposed combination of Whiteside in view of Young for at least the foregoing reasons.

It is worth noting that dependent claims 24 and 27 are further patentable over Whiteside in view of Young because neither reference, either alone or in combination, discloses or otherwise teaches or suggests a cone shaped insert or member. As discussed in the previous section, Whiteside fails to disclose a cone shaped member. Young does not cure the deficiencies of Whiteside as it only teaches or suggests an O-ring, which is clearly not cone shaped. Thus, dependent claims 24 and 27 are patentable over Whiteside in view of Young for this additional, independently sufficient reason.

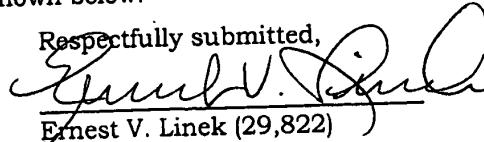
Accordingly, claim 16 is patentable over Whiteside in view of Young at least because neither citation discloses or otherwise teaches or suggests an interface insert fixed in at least one of the first post, the second post, the first end, the second end, and the key. Claims 17-34 are patentable over Whiteside in view of Young at least by virtue of their direct or indirect dependency. Similarly, claim 35 is patentable over Whiteside in view of Young at least because Whiteside fails to disclose or otherwise teach or suggest at least one wear protection member being fixed into the at least one groove.

Conclusion

Allowance of the new claims is respectfully requested.

Should the Examiner wish to discuss any of the amendments and/or remarks made herein, the undersigned appointed attorney would appreciate the opportunity to do so. Thus the Examiner is hereby authorized to call the undersigned, collect at the number shown below.

Respectfully submitted,



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